

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

CHAD DOUGLAS MOORE,
Plaintiff,

V.

**DAVID O. GREGORY, et al.,
Defendants.**

Civil Action No. 7:06-cv-00546

ORDER ADOPTING REPORT AND RECOMMENDATION

By: Hon. Samuel G. Wilson
United States District Judge

Chad Douglas Moore brings this suit pursuant to 42 U.S.C. § 1983, claiming that he was subjected to an excessive use of force, correctional officers failed to protect him from that excessive use of force, his bodily privacy was violated when his genitals were exposed to female prison officers via video, various defendants failed to investigate the alleged excessive use of force, and he was held in cruel and unusual living conditions. The defendants filed a motion for summary judgment, and the court referred the matter to United States Magistrate Judge Michael F. Urbanski for a report and recommendation, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge subsequently filed a report, finding genuine issues of material fact as to Moore's excessive force and failure to protect claims, but no genuine issues of material fact as to his claims of failure to investigate the alleged excessive use of excessive force, invasion of bodily privacy, and cruel and unusual living conditions. The Magistrate Judge recommended that defendants' motion for summary judgment be granted in part and denied in part and the remaining issues be set for trial. Both the plaintiff and the defendants filed objections within the ten days allotted under 28 U.S.C. § 636(b), reiterating the arguments made in their respective pleadings. Having reviewed the Report and Recommendation, the objections thereto, and all relevant portions of the record de novo in accordance with 28 U.S.C. § 636(b)(1), the court agrees with the Magistrate Judge's recommendation.

Accordingly, it is hereby **ORDERED** and **ADJUDGED** as follows:

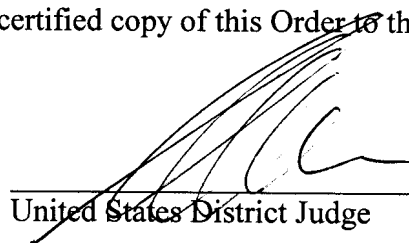
1. The Report and Recommendation is **ADOPTED** in its entirety;
2. Defendants' motion for summary judgment is **GRANTED in part** and **DENIED in**

part:

- a. Defendants' motion for summary judgment is **GRANTED** with regard to plaintiff's claims of failure to investigate the alleged excessive use of excessive force, invasion of bodily privacy, and cruel and unusual living conditions; Accordingly, these claims shall be and hereby are **DISMISSED**;
- b. Defendants Christy Boyers, Larry Dull, Eric Young, John Craig, and Randy Fisher are **DISMISSED** as defendants to this action and the Clerk is directed to **TERMINATE** these defendants from this action;
- c. Defendants' motion for summary judgment is **DENIED** with regard to plaintiff's claims of excessive force and failure to protect;
3. Accordingly, only plaintiff's claim of excessive force against defendant Gregory and his claim of failure to protect against defendants Bosserman and Cross shall go forward;
4. The Clerk is **DIRECTED** to set this matter for trial in the Harrisonburg Division before a seven-member jury on the remaining claims.

The Clerk of the Court is directed to send a certified copy of this Order to the plaintiff.

ENTER: This 15th day of June, 2007.



United States District Judge